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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/010,870	12/07/2001	Hendrik Klaas Kuiper	K0001/7000P1	7378
22832	7590	01/28/2005	EXAMINER	
KIRKPATRICK & LOCKHART LLP 75 STATE STREET BOSTON, MA 02109-1808			TRETTEL, MICHAEL	
			ART UNIT	PAPER NUMBER
			3673	
DATE MAILED: 01/28/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

## Application No.

10/010,870

## Applicant(s)

KUIPER ET AL.

## Examiner

Michael Trettel

## Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4,6-8,13-19,22-26 and 28 is/are rejected.
- 7) ☒ Claim(s) 5,9-12,20,21,27 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

**DETAILED ACTION**

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Claim Rejections - 35 USC § 103***

Claims 1 to 4, 6 to 8, 13 to 19, 22 to 26, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaw (6,154,900). Shaw shows a patient turning device 10 that is of particular interest. The device includes a pair of inflatable turning bladders 14 each of which are received within and held by a pair of sleeves 12. The sleeves can act as a means for attaching hook and loop fastener strips to the bladders, such that the bladders can be attached to a body supporting pad 32. The bladders and sleeves are attached to an underside of the pad 32 such that the pad directly supports a user of the device, with the bladders being alternately inflated and deflated to rock the user back and forth. A pair of side bolsters 50 can be used in combination with the device to prevent slipping of the user off a side of the device while undergoing a rocking motion. The bolsters can be made of foam or alternately can be inflatable (column 6, line 54) and are retained within a sleeve 58 formed as part of a retainer 54. A pair of the retainers are overlapped and placed underneath the pad/sleeve combination as is shown in Figures 1 and 5. An air supply means, such as a pump or pressurized tank, is provided to alternately inflate and deflate the turning bladders 14 to rock the patient back and forth to provide pressure relief (column 4, lines 21 to 58). While the material used to make the body pad 32 of the Shaw device is not specified, the examiner takes notice that it is very well known in the art to make body supporting pads from a variety of material such as foam, fibers, gels, and air filled bladders

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similar to the bladders 14. Because of this it would have been obvious to the skilled artisan to have made the body pad 32 of the Shaw device as an air filled bladder, this being one of only several equivalent methods of making such as pad. In addition the various means for inflating and deflating air bladders specified in claims 14 to 19 and 23 to 25 are well known in the art, and since Shaw states in column 4 lines 21 to 35 that any well known means can be used to inflate and deflate the air bladders in an alternate fashion the skilled artisan would have been free to use any means well known in the art, such as a vacuum pump or use of an electrical air pump, for inflating and deflating the air bladders 14 of the Shaw device.

### ***Response To Arguments***

Applicant's arguments filed November 3, 2004 have been fully considered but they are not persuasive.

With regards to the rejection under 102 the applicant's amendments have rendered the rejection moot. The rejection under 103 stands however. The applicant has argued that the examiner has not applied any motivation when making the rejection under 103, and has asserted that the examiner has simply taken the position that the invention is obvious by lifting part of the comments made out of context. This is incorrect, a full reading of the rejection includes the complete phrase "While the material used to make the body pad 32 of the Shaw device is not specified, the examiner takes notice that it is very well known in the art to make body supporting pads from a variety of material such as foam, fibers, gels, and air filled bladders similar to the bladders 14. Because of this it would have been obvious to the skilled artisan to have made the body pad 32 of the Shaw device as an air filled bladder, this being one of only several equivalent

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methods of making such as pad." The applicant has overlooked the ending comment noting that there are several differing and equivalent methods available in the prior art to make a pad similar to pad 32 used in the Shaw device, one of which would be making it in an inflatable form. Other equivalent modes of pad construction well known in the art include (but are not limited to) gel filled pads, water filled pads, spring cores, foam fillers, and hybrids that combine one or more of the above types of pad construction. The skilled artisan would presumably be aware of these differing and yet equivalent types of pad construction, and would use at least one of them to produce the pad 32 used in the Shaw patient turner. This is especially relevant because Shaw is silent upon what type of construction is used to make the pad, and therefore the skilled artisan would be free to consult the known techniques found in the prior art to make the pad. Since the applicant has not addressed the above point, the arguments presented regarding the asserted lack of motivation are unpersuasive.

The argument concerning the use of a pad of substantially constant thickness is unpersuasive. The applicant has asserted that an inflatable pad would not stay at a constant thickness during use, and thus the skilled artisan would not consider the use of such a pad. The assertion is incorrect, the prior art is replete with various methods used to construct inflatable mattresses and pads that do not deflect or balloon under use. One such common technique is the use of an internal baffling system that attaches the upper and lower layers of an inflatable pad together and serves to restrict air flow through the interior of the mattress. This system ties together the upper and lower layers so that they do not spread apart under load, which prevents a user from bottoming out or bursting the mattress. Another well known technique is the use of a semi-permeable filler such as open celled foam to create a "self inflating" type of air pad.

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Because these types of air pad construction are well known the applicant's arguments on this point are unpersuasive.

***Allowable Subject Matter***

Claims 5, 9 to 12, 20, 21, and 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

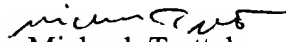
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Trettel whose telephone number is 703-308-0416. The

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examiner can normally be reached on Monday, Tuesday, Thursday, or Friday from 7.30 am to 5.00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford, can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

  
Michael Trettel  
Primary Examiner  
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